

INSTRUCTIONS FOR USE OF FUNCTIONAL ABILITY HEALTH QUESTIONNAIRE (SPB 2066)

This questionnaire may be subject to change based upon feedback received from departments and employee organizations. There is currently no Board regulation or decision that requires departments to use this specific questionnaire. It is intended as an alternative to the STD 910 - "Essential Functions Health Questionnaire" available in January 2002.

This questionnaire is designed to be used in conjunction with offers of employment extended to individuals for those jobs that do not require a physical examination. Departments should continue to use Form STD 610 (11/86) for those positions that require a physical examination prior to placement.

The department Personnel Office must supply a current duty statement for the actual position being offered. The duty statement must reflect the actual duties performed by the position being offered, and must designate which of those functions are "essential."

For each applicable category listed in Section II of the Questionnaire, the Personnel Office must specifically identify those essential functions of the position that are implicated by the question.

Completed Questionnaires may be forwarded to the State Medical Officer at 801 Capitol Mall, Sacramento, CA 95814 for review as part of the consultation process as questions arise. Stephen Weyers, M.D. may be reached at (916) 653-0790, CALNET 453-0790 or TDD (916) 653-1498.

ESSENTIAL FUNCTIONS TEST

The term essential functions means the fundamental job duties of the employment position the individual with a disability desires. The term "essential functions" does not include the marginal functions of the position. The essential functions are those functions that the individual who holds the position must be able to perform unaided or with the assistance of a reasonable accommodation.

The inquiry into whether a particular function is essential initially focuses on whether the employer actually requires employees in the position to perform the functions that the employer asserts are essential. For example, an employer may state that typing is an essential function of a position. If, in fact, the employer has never required any employee in that particular position to type, this will be evidence that typing is not actually an essential function of the position.

If the individual who holds the position is actually required to perform the function the employer asserts is an essential function, the inquiry will then center around whether removing the function would fundamentally alter that position. The first factor to consider is whether the position exists to perform a particular function.

For example, an individual may be hired to proofread documents. The ability to proofread the documents would then be an essential function, since this is the only reason the position exists.

The second factor in determining whether a function is essential is the number of other employees available to perform that job function or among whom the performance of that job function can be distributed. This may be a factor either because the total number of available employees is low, or because of the fluctuating demands of the business operation. For example, if an employer has a relatively small number of available employees for the volume of work to be performed, it may be necessary that each employee perform a multitude of different functions. Therefore, the performance of those functions by each employee becomes more critical and the options for reorganizing the work become more limited. In such a situation, functions that might not be essential if there were a larger staff may become essential because the staff size is small compared to the volume of work that has to be done.

A similar situation might occur in a larger work force if the workflow follows a cycle of heavy demand for labor intensive work followed by low demand periods. This type of workflow might also make the performance of each function during the peak periods more critical and might limit the employer's flexibility in reorganizing operating procedures.

The third factor is the degree of expertise or skill required to perform the function. In certain professions and highly skilled positions the employee is hired for his or her expertise or ability to perform the particular function. In such a situation, the performance of that specialized task would be an essential function.

The terms of a collective bargaining agreement are also relevant to the determination of whether a particular function is essential. The work experience of past employees in the job or of current employees in similar jobs is likewise relevant to the determination of whether a particular function is essential.

The time spent performing the particular function may also be an indicator of whether that function is essential. For example, if an employee spends the vast majority of his or her time working at a cash register, this would be evidence that operating the cash register is an essential function. The consequences of failing to require the employee to perform the function may be another indicator of whether a particular function is essential. For example, although a firefighter may not regularly have to carry an unconscious adult out of a burning building, the consequence of failing to require the firefighter to be able to perform this function would be serious.

It is important to note that the inquiry into essential functions is not intended to second guess an employer's business judgment with regard to production standards, whether qualitative or quantitative, nor to require employers to lower

such standards. If an employer requires its typists to be able to accurately type 75 words per minute, it will not be called upon to explain why an inaccurate work product, or a typing speed of 65 words per minute, would not be adequate. Similarly, if a hotel requires its service workers to thoroughly clean 16 rooms per day, it will not have to explain why it requires thorough cleaning, or why it chose a 16 room rather than a 10 room requirement. However, if an employer does require accurate 75 word per minute typing or the thorough cleaning of 16 rooms, it will have to show that it actually imposes such requirements on its employees in fact, and not simply on paper. It should also be noted that, if it is alleged that the employer intentionally selected the particular level of production to exclude individuals with disabilities, the employer may have to offer a legitimate, nondiscriminatory reason for its selection.

In short, whether a particular function is essential is a factual determination that must be made on a case by case basis. As indicated above, in determining whether or not a particular function is essential, all relevant evidence should be considered. These factors include, but are not limited to: (1) the employer's judgment as to which functions are essential; (2) written job descriptions that are current and describe the actual duties of the position, and that are prepared before advertising or interviewing applicants for the job; (3) the amount of time spent on the job performing the function; (4) the consequences of not requiring the incumbent to perform the function; (5) the terms of a collective bargaining agreement; (6) the work experience of past incumbents in the job; and/or (7) the current work experience of incumbents in similar jobs.

DEPARTMENT RESPONSIBILITIES REGARDING SECTION II

There are 16 questions in Section II of the Questionnaire that deal with different physical and/or mental requirements for the job. It is possible that an applicant may be required to answer none, some, or all of the questions, depending upon the requirements of the particular job. For each question the department deems necessary for the applicant to answer, it is the department's responsibility to affirmatively list the essential job duties implicated by the physical and/or mental requirements for that job. (For example, if one of the essential functions for the position of Office Assistant (Receptionist) is to answer the telephone, Question No. 2, HEARING, will be implicated and the department should list answering telephones as an essential job function.)

If the department reasonably determines that all of the essential functions of the position are implicated by the particular physical and/or mental requirement, it can refer the applicant to the essential functions listed in the job analysis provided to the applicant, and need not specifically list each essential function in the space provided. DEPARTMENT'S SHOULD BE CAUTIOUS IN USING THIS APPROACH, HOWEVER, AS EACH ESSENTIAL FUNCTION MUST BE REASONABLY RELATED TO THE PHYSICAL AND/OR MENTAL REQUIREMENT AT ISSUE.

While the majority of the questions in Section II are self-explanatory, certain of them may require additional explanation, as follows:

- (1) Question No. 4 – Cardiac/Circulatory System. This question is intended to be utilized for essential functions that require moderate to strenuous physical activity, such as walking for extended distances, running, or performing heavy manual labor. It is also intended to be used for essential functions that are known to cause a great deal of mental stress to a reasonable person when he or she performs them.
- (2) Question No. 5 – Respiratory System. This question is intended to be utilized for essential functions that require moderate to strenuous physical activity, such as walking for extended distances, running, or performing heavy manual labor. It is also intended to be used for essential functions that require individuals to work in areas of high dust, chemical fumes/vapors, or other air-borne particles that may cause a person difficulty in breathing.
- (3) Question No. 6 – Orthopedic. This question is intended to be utilized for essential functions that require the use of one or more of the body parts listed. For each essential function, the Department must designate which body-parts are implicated. For example, if one of the essential functions for the position Office Assistant requires the ability to type, the Department could list: "Typing (finger, hand, wrist)."
- (4) Question No. 11 – Concentration. This question is intended to be utilized for essential functions that require continuous concentration on the part of the individual, such that substantial harm may occur if concentration lapses during the performance of the duty. Examples of such duties include driving, operating machinery, and performing accounting functions.

DEPARTMENT RESPONSIBILITY REGARDING REQUESTS FOR REASONABLE ACCOMMODATION

Departments are required to engage in a good faith, interactive process with job applicants who have requested reasonable accommodation to perform the essential functions of the job. Applicants are instructed to list all such requests in Section III of the questionnaire.

In addition, in Section IV of the questionnaire, applicants are instructed to list functional limitations they have that they believe may preclude them from performing one or more of the essential functions of the position. Departments should review responses in Section IV to determine if the listed limitation(s) may prevent the applicant from performing one or more of the essential functions of the job and, if so, whether reasonable accommodation is appropriate.